

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 27.80  
Title 14, California Code of Regulations  
Re: Ocean Salmon Sport Fishing

- I. Date of Initial Statement of Reasons: December 9, 2004
- II. Date of Pre-adoption Statement of Reasons: March 14, 2005
- III. Date of Final Statement of Reasons: May 10, 2005
- IV. Dates and Locations of Scheduled Hearings:
  - (a) Notice Hearing: Date: February 4, 2005  
Location: San Diego, CA
  - (b) Discussion Hearing: Date: March 18, 2005  
Location: Oakland, CA
  - (c) Adoption Hearing: Date: May 5, 2005  
Location: Sacramento, CA

V. Update:

Since the Pre-adoption statement, the Pacific Fishery Management Council (PFMC) held one public hearing in California and met in Tacoma, Washington, the week of April 4-8, 2005 to decide the final regulations for federal waters (3-200 miles offshore).

Option 2, as shown in the Pre-adoption statement, was adopted for the California ocean salmon sport fishery.

VI. Summary of Primary Considerations Raised in Opposition and in Support:

The summary of considerations and responses are provided in Attachment 1.

VII. Location and Index of Rulemaking File:

A rule-making file with attached file index is maintained at:

California Fish and Game Commission  
1416 Ninth Street  
Sacramento, California 95814

VIII. Location of Department files:

Department of Fish and Game  
1416 Ninth Street  
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

The PFMC examined various alternatives in the process of adopting the management options on March 11, 2005 for public review. These included such alternatives as:

1. the minimum size of salmon that may be retained;
2. the number of rods anglers may use (e.g., one, two, or unlimited);
3. the type of bait and/or terminal gear that may be used (e.g., amount of weight, hook type, and type of bait or no bait);
4. the number of salmon that may be retained per angler-day or period of days;
5. the definition of catch limits to allow for combined boat limits versus individual angler limits;
6. the allowable fishing dates and areas; and
7. the overall number of salmon that may be harvested, by species and area.

(b) No Change Alternative:

Upon approval of the PFMC's management recommendations by the Secretary of Commerce (SOC), the State must move in a timely manner to conform its ocean sport fishing regulations for salmon within State waters (0 to 3 miles offshore) to those adopted by the SOC; otherwise, preemption of State regulatory authority by the SOC may occur.

(c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Regulations close to the status quo were adopted.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Other Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None

- (g) Costs Imposed to Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

- (h) Effect on Housing Costs: None.

## Updated Informative Digest/Policy Statement Overview

The Pacific Fishery Management Council (PFMC) annually reviews the status of west coast salmon populations. As part of that process, it recommends ocean fishing regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan.

The PFMC is expected to adopt regulation recommendations, similar to recent years, for the recreational ocean salmon fisheries in Federal waters (3 to 200 miles offshore) off the states of Washington, Oregon, and California for 2005. The various alternatives the PFMC will examine in the process of adopting the management options on March 11, 2005, for public review may include:

1. the minimum size of salmon that may be retained;
2. the number of rods anglers may use (e.g., one, two, or unlimited);
3. the type of bait and/or terminal gear that may be used (e.g., amount of weight, hook type, and type of bait or no bait);
4. the number of salmon that may be retained per angler-day or period of days;
5. the definition of catch limits to allow for combined boat limits versus individual angler limits;
6. the allowable fishing dates and areas; and
7. the overall number of salmon that may be harvested, by species and area.

The final regulation recommendations will be made by the PFMC on April 8, 2005. Upon approval of the PFMC's management recommendations by the Secretary of Commerce, the State must move in a timely manner to conform its ocean sport fishing regulations for salmon in State waters (0 to 3 miles offshore) to those agreed upon by the PFMC; otherwise preemption of State regulatory authority by the Secretary of Commerce may occur. The federal regulations are expected to be implemented effective May 1, 2005.

The Initial Statement of Reasons reflected the range of possible management measures that will be considered for 2005. At the PFMC's March 7-11, 2005 meeting, four options were developed that will consider specific changes from current regulations. The following options are due to very low ocean abundance forecast of Klamath River fall chinook and different catch allocations for Klamath Basin in-river fisheries.

Under all four options, the season is similar to current regulations except as follows: In all options for 2006, the opening dates between Horse Mountain and Point Arena will be February 18 and below Point Arena will be April 1.

### Option 1

Seasons: For north of Horse Mountain and Humboldt Bay (Klamath Management Zone), the season length is decreased 47 days due to a later season opener and a mid season closure for most of July and early August. The area between Horse Mountain and Point Arena (Fort Bragg) has the same season length. The area between Point Arena and Pigeon Point (San Francisco) has 14 more days due to an earlier season opener. The area between Pigeon Point and the U.S./ Mexico border (Monterey) has 7 less days due to an earlier season closure.

### Option 2

Seasons: For north of Horse Mountain and Humboldt Bay (Klamath Management Zone), the season length is decreased 47 days due to a later season opener and a mid season closure for most of July and early August. The area between Horse Mountain and Point Arena (Fort Bragg) has 10 less days due to two closures in July. The area between Point Arena and Pigeon Point (San Francisco) has 14 more days due to an earlier season opener. The area between Pigeon Point and the U.S./ Mexico border (Monterey) has 7 less days due to an earlier season closure.

### Option 3

Seasons: For north of Horse Mountain and Humboldt Bay (Klamath Management Zone), the season length is decreased 56 days due to a later season opener and closures in late June, most of July and early August. The area between Horse Mountain and Point Arena (Fort Bragg) has 18 less days due to a mid season closure in late July and early August. The area between Point Arena and Pigeon Point (San Francisco) has 3 more days due to an earlier season opener and an 11 day July closure. The area between Pigeon Point and the U.S./ Mexico border (Monterey) has 18 less days due to an earlier season and early July closures.

### Option 4

Seasons: For north of Horse Mountain and Humboldt Bay (Klamath Management Zone), the season length is decreased 34 days due to a later season opener and a mid season closure for most of July. The area between Horse Mountain and Point Arena (Fort Bragg) has the same season length. The area between Point Arena and Pigeon Point (San Francisco) has 14 more days due to an earlier season opener. The area between Pigeon Point and the U.S./ Mexico border (Monterey) has 7 less days due to an earlier season closure.

**The Commission adopted Option 2 for the California ocean salmon sport fishery.**

## **Supplement to the Final Statement of Reasons**

The following information is added in a Supplement to the Final Statement of Reasons to provide additional information regarding the necessity for change to the recreational ocean salmon regulations and to support the need for the regulations to be effective on filing.

Although the Fish and Game Commission has full authority to make changes to these regulations, changes are made in a partnership between California, Oregon and Washington; along with the direction of the Federal Government, through the Pacific Fishery Management Council (PFMC). The cooperative effort is created to ensure a balanced allocation of salmon between the Pacific coast states, to address possible concerns regarding listed species under the Federal Endangered Species Act and to ensure breeding stocks are available for future spawning.

Consideration of additional seasons and take in State waters, beyond the proposal for Federal waters, must be consistent with the PFMC objectives and must include adequate scientific modeling to justify exceeding the limits of Federal regulations in coastal waters beyond three miles.

Finally, Federal regulations for ocean waters beyond three miles became effective May 1, 2005. In an effort to simplify regulations and avoid confusion for both anglers and enforcement personnel, an expedited review is requested so State waters regulations, within three miles, are consistent with the Federal waters regulations.

## Regulatory Language

Section 27.80, Title 14, CCR is amended to read:

### **27.80. Salmon.**

(a) Methods of take:

(1) General Provisions. Only by angling as defined in Section 1.05. No sinkers or weights exceeding four pounds may be used, except that a fishing line may be attached to a sinker or weight of any size if such sinker or weight is suspended by a separate line and the fishing line is released automatically by a mechanical device from the sinker or weight when any fish is hooked. See sections 1.74, 28.65 and 28.70.

(2) Barbless Hooks. No more than two (2) single point, single shank barbless hooks shall be used in the ocean north of Point Conception (34°27'00" N. lat.) when salmon fishing or fishing from any boat or floating device with salmon on board.

(3) Other Hook Restrictions. When fishing with bait in the ocean between Horse Mountain (40°05'00" N. lat.) and Point Conception, if angling by any other means than trolling, then no more than two (2) single point, single shank, barbless circle hooks shall be used. The distance between the two hooks must not exceed five inches when measured from the top of the eye of the top hook to the inner base of the curve of the lower hook, and both hooks must be permanently tied in place (hard tied). A circle hook is defined as a hook with a generally circular shape, and a point which turns inwards, pointing directly to the shank at a 90 degree angle. Trolling is defined as angling from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions. See Section 28.65(g).

(4) One Rod Restriction north of Point Conception. Salmon may be taken by angling with no more than one rod in ocean waters north of Point Conception. See Section 28.65(e).

(b) Season:

(1) South of Pigeon Point (37° 11' 00" N. lat.). All waters of the ocean south of Pigeon Point are open to salmon fishing from April 3, ~~2004~~2, 2005 through ~~October 3, 2004~~September 25, 2005 (Note: In ~~2005~~2006, the season will open ~~April 2, the Saturday after April 1, the first Saturday in April~~).

(2) Between Point Arena (38° 57' 30" N. lat.) and Pigeon Point. All waters of the ocean between Point Arena and Pigeon Point are open to fishing from April 17, ~~2004~~2, 2005 through November 14, ~~2004~~13, 2005 (Note: In ~~2005~~2006, the season will open ~~April 2, the Saturday after April 1, the first Saturday in April~~).

(3) Between Horse Mountain and Point Arena. All waters of the ocean between Horse Mountain and Point Arena are open to salmon fishing from February 14, ~~2004~~12, 2005, the Saturday nearest February 15, through July 10, 2005; July 16 through July 17, 2005; and July 23, 2005 through November 14, 200413, 2005, the Sunday nearest November 15 (Note: In ~~2005~~2006, the season will open February 1218, the Saturday nearest February 15).

(4) North of Horse Mountain and Humboldt Bay. All waters of the ocean north of Horse Mountain and Humboldt Bay are open to salmon fishing from May ~~15, 2004~~21, 2005 through July 4, 2005 and August 14, 2005 through September ~~12, 2004~~11, 2005 (Note: In ~~2005~~2006, the season will be decided in April by the Pacific Fishery Management Council and California Fish and Game Commission and the section will be amended pursuant to the regulatory process).

Exception: The ocean area surrounding the Klamath River mouth bounded on the north by 41°38'48"N lat. (approximately 6 nautical miles north of the Klamath River mouth), on the south by 41°26'48" N. lat. (approximately 6 nautical miles south of the Klamath River mouth), and extending 3 nautical miles offshore is closed to salmon fishing between August 1 and August 31. No salmon may be taken at any time in ocean waters at the mouths of the Smith and Klamath rivers and during August and September at the mouth of the Eel River. See Section 27.75.

(c) Limit:

(1) Two salmon per day. See subsection (c)(2) below and Section 1.17.

(2) Statewide Silver (coho) Salmon Restrictions: No silver (coho) salmon may be retained.

(d) Minimum size:

(1) North of Horse Mountain: Twenty~~four~~ inches total length.

(2) South of Horse Mountain: Twenty~~four~~ inches total length ~~through April 30 and twenty inches total length thereafter.~~ (Note: In ~~2005~~2006, the season will open with a minimum size of twenty inches total length).

NOTE

Authority cited: Sections 200, 202, 205, 220, 240, 2084 and 7891, Fish and Game Code. Reference: Sections 200, 202, 205 and 2084, Fish and Game Code; and Title 50, Code of Federal Regulations, Part 660.